

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

Jeanette Wright,

Plaintiff,

v.

Harbor Freight Tools USA, Inc.

Defendant.

Case No. 5:25-cv-04049-CMC

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

INTRODUCTION

1. As the Supreme Court has explained, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls.... For nearly 30 years, the people’s representatives in Congress have been fighting back. As relevant here, the Telephone Consumer Protection Act of 1991, known as the TCPA, generally prohibits robocalls to cell phones and home phones.” *Barr v. Am. Ass’n of Pol. Consultants*, 591 U.S. 610, 613 (2020).

2. Defendant Harbor Freight Tools USA, Inc. (“Harbor Freight”) has contributed to this barrage of telephone spam by initiating illegal text messages to Plaintiff Jeanette Wright (“Wright”) and thousands of others like her.

3. In October of 2024, Wright requested that Harbor Freight’s text messages stop. But Harbor Freight continued to send her telemarketing text messages.

4. Unfortunately, this is not the first time Harbor Freight has been sued for violations of the TCPA. *See, e.g., Isaacs v. Harbor Freight Tools USA, Inc.*, No. 6:22-cv-01250-RBD-LHP (M.D. Fla.).

5. Wright brings this action individually and on behalf of putative class members who likewise were spammed by Harbor Freight after asking for the messages to stop.

JURISDICTION AND VENUE

6. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the TCPA, 47 U.S.C § 227.

7. This Court has personal jurisdiction over Harbor Freight because it targeted its telemarketing text messages into South Carolina. Specifically, Harbor Freight initiated or directed the transmission of telemarketing text messages to Wright's cellular telephone number to sell goods and services in South Carolina. Harbor Freight sells merchandise through its online channels targeting individuals in every state including South Carolina. Harbor Freight also operates multiple storefronts throughout the state of South Carolina. Further, Wright has a phone number with an 803 area code, which is a South Carolina area code. Thus, Harbor Freight knew, or constructively knew, that its text messages were being sent to a consumer in South Carolina.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1331 because a significant portion of events giving rise to this lawsuit occurred in this district and Wright resides in this district.

PARTIES

9. Plaintiff Jeanette Wright is a citizen of South Carolina, residing in the city of Vance, South Carolina.

10. Defendant Harbor Freight Tools USA, Inc. is a Delaware corporation with its principal place of business in Calabasas, California.

FACTUAL ALLEGATIONS

11. Wright is the residential telephone subscriber of the cell phone number 803-308-8081. Wright maintains this phone solely for personal, family, and household use. She does not use this phone number for any business purposes, and it is not subscribed as a business number.

12. Wright has received many text messages from Harbor Freight.

13. These text messages came from the short code 34648.

14. 34648 is a short code phone number that Harbor Freight uses.

15. On October 23, 2024, at 2:55 PM UTC, Wright sent “STOP” to 34648.

16. Harbor Freight’s SMS logs show that on October 23, 2024, the phone number 803-308-8081 sent 34648 a text message that said STOP.

17. Despite Wright’s stop request, Wright continued to receive text messages from 34648.

18. Those text messages include, but are not limited to, the following:

i. October 25, 2024 at 4:36 PM UTC from 34648

Harbor Freight: Select tools are 15% - 40% off this weekend at SUPER SAVINGS! Hand tools, power tools, storage and more! <https://hf.tools/tx182979/>

ii. November 1, 2024 at 4:18 PM UTC from 34648

Harbor Freight: 15% off any single item, this weekend only! Make a trip to Harbor Freight and kick off November with savings! <https://hf.tools/tx183269/>

iii. November 4, 2024 at 5:31 PM UTC from 34648

Harbor Freight: Don’t miss dozens of COUPON DEALS on hand tools, power tools, and more! Plus, items for \$9 or less at Dollar Days! <https://hf.tools/tx183219/>

iv. November 8, 2024 at 5:29 PM UTC from 34648

Harbor Freight: STOCK UP & SAVE! \$25 off purchases of \$100 or more, or \$10 off purchases \$50 or more! Limited time, ends 11/10! <https://hf.tools/tx183273b/>

- v. November 13, 2024 at 5:37 PM UTC from 34648
Harbor Freight: Let's help you find the right gift! Who are you shopping for this holiday season? Reply with the # 1 The Tool Expert 2 The DIYer 3 Everyone
 - vi. November 15, 2024 at 5:29 PM UTC from 34648
Harbor Freight: Get 30% off all items \$10 and under while supplies last! See you this weekend! <https://hf.tools/txt183271a/> Reply HELP for Help, STOP to Stop
 - vii. November 18, 2024 at 5:29 PM UTC from 34648
Harbor Freight: Don't miss dozens of limited-time deals including EARLY BLACK FRIDAY COUPONS, plus NEW DOLLAR DAYS DEALS! <https://hf.tools/txt183220rb/>
 - viii. November 22, 2024 at 5:29 PM UTC from 34648
Harbor Freight: NO PURCHASE REQUIRED! Pick 1 of 3 FREE GIFTS: LED Mini Worklight 4-Pack of Microfiber Cloths Pick Up & Reach Tool <https://hf.tools/txt183275/>
 - ix. November 25, 2024 at 5:27 PM UTC from 34648
Harbor Freight: Join the Inside Track Club for early in-store access to our BLACK FRIDAY SALE! Sign up today! <https://hf.tools/txt183277/>
 - x. December 6, 2024 at 5:38 PM UTC from 34648
Harbor Freight: Still need gifts? Don't miss our BLACK FRIDAY SALE this weekend! There's still time to save before it ends on 12/8 <https://hf.tools/txt183278r/>
19. The text messages from 34648 to 803-308-8081 were sent by Harbor Freight.
20. Wright received multiple text messages more than 30 days after texting STOP to Harbor Freight.
21. As demonstrated by the above messages, Harbor Freight does not honor consumer requests to opt-out of telemarketing text messages.
22. Harbor Freight has not instituted procedures for maintaining a list of persons who request not to receive telemarketing text messages, as evidenced by Harbor Freight's text messages to Wright after she made a stop request.

23. Therefore, Harbor Freight sent telemarketing text messages to Wright before implementing and maintaining required internal do not call list procedures.

24. Harbor Freight describes itself as “America’s #1 Tool Store with more than 1500 locations nationwide.”¹ It sells an assortment of tools both online and in its stores.²

25. The purpose of the text messages was to encourage Wright to purchase products from Harbor Freight. The text messages offer deals and promotions to encourage consumers to make purchases at HarborFreight.com. The hyperlinks in the SMS, when clicked, redirected to HarborFreight.com.

26. Most of the text messages from 34648 do not have opt-out instructions, even though “STOP” is universally recognized by the FCC and courts around the country as the clearest form of an opt-out request.

27. Further, opt-out instructions are a standard requirement outlined in the Principles and Best Practices manual published by the CTIA, the trade association that represents every major wireless carrier in the country.³

28. Harbor Freight’s failure to provide opt-out instructions in its text messages is further evidence of its failure to adequately implement policies and procedures necessary for maintaining an internal do not call list.

29. Harbor Freight’s text messages are a nuisance and annoyance to Wright. The texts have invaded Wright’s privacy, and they have diminished the value of Wright’s phone.

¹ *About Us*, HARBOR FREIGHT, <https://www.harborfreight.com/about-us>.

² *Id.*

³ See CTIA Messaging Principles and Best Practices, May 2023, at p. 13 of 22; <https://api.ctia.org/wp-content/uploads/2023/05/230523-CTIA-Messaging-Principles-and-Best-Practices-FINAL.pdf> (“Message senders should state in the message how and what words affect an opt-out.”).

LEGAL STANDARD

30. **Internal Do Not Call Procedures.** “No person or entity shall initiate. . . any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive such calls.” 47 C.F.R. § 64.1200(d). Telemarketers “must have a written policy. . . for maintaining a do-not-call list” and “must honor a residential subscriber's do-not-call request.” *Id.* at 64.1200(d)(1) and (3).

31. **Application to Text Messages.** “The rules set forth in paragraph (c) and (d) of [47 C.F.R. § 64.1200] are applicable to any person or entity making telephone solicitations or telemarketing calls or text messages to wireless telephone numbers.” 47 C.F.R. § 64.1200(e).

32. **South Carolina Telephone Privacy Protection Act (“SCTPPA”).** “A person may not initiate, or cause to be initiated, a telephone solicitation directed to a telephone number when a person at that telephone number previously stated a desire not to be contacted again by or on behalf of the person on whose behalf the telephone solicitation is being made.” S.C. Code Ann. § 37-21-70(A).

CLASS ACTION ALLEGATIONS

33. Pursuant to Federal Rule of Civil Procedure 23(b)(3), Wright brings this action on behalf of other persons similarly situated.

34. Wright proposes the following classes:

The Internal Do Not Call Class: All persons in the United States (1) to whom Harbor Freight initiated, or caused to be initiated, (2) more than one text message, excluding order and delivery notifications, within any 12-month period, (3) after receiving a do not call request, (4) within the last four years prior to the filing of this action through the date class notice is sent.

The SC Stop Class: All persons (1) with a South Carolina area code, (2) to whom Harbor Freight initiated, or caused to be initiated, (3) one or more text messages, excluding order and delivery notifications, (4) after receiving a do not call request, (5) within the last three years prior to the filing of this action through the date class notice is sent.

NUMEROSITY

35. Wright does not know the exact number of class members but reasonably believes the number to be in the thousands, thus making joinder of all class members impracticable.

36. Class members are identifiable through the records of Harbor Freight, as well as phone records and phone number databases.

COMMONALITY

37. There are questions of law and fact common to Wright and the class members including but not limited to:

- i. Whether Harbor Freight instituted the requisite internal do not call procedures.
- ii. Whether Harbor Freight honors opt-out or “stop” requests.
- iii. Whether Harbor Freight’s text messages constitute telemarketing.
- iv. Whether Wright and the class members are entitled to statutory damages and trebled damages.

TYPICALITY

38. Wright’s claims are typical of the claims of the class members. Wright’s claims, like the class members’ claims, arise out of the same common course of conduct by Harbor Freight and are based on the same legal and remedial theories.

ADEQUATE REPRESENTATION

39. Wright is an adequate representative of the class because Wright’s interests do not conflict with the interests of the class members, Wright will fairly and adequately protect the

interests of the class members, and Wright is represented by counsel skilled and experienced in class actions, including TCPA class actions.

PREDOMINANCE OF COMMON QUESTIONS

40. Common questions of law and fact predominate over questions affecting only individual class members.

SUPERIORITY

41. Management of these claims is likely to present significantly fewer difficulties than are presented in many class claims because the damages are statutory. Notice to class members can be provided by mail or other means. Class treatment is superior to multiple individual suits or piecemeal litigation because doing so will conserve judicial resources, promote consistency and efficiency of adjudication, provide a forum for small claimants, and deter illegal activities. There will be no significant difficulty in the management of this case as a class action.

42. The likelihood that individual class members will prosecute separate actions is remote due to the time and expense necessary to prosecute an individual case.

FIRST CAUSE OF ACTION

Violation of 47 C.F.R. § 64.1200(d) and 47 U.S.C. § 227(c) (On Behalf of Plaintiff and the Internal Do Not Call Class)

43. Harbor Freight violated 47 C.F.R. § 64.1200(d) by initiating, or causing to be initiated, text messages to Wright and the Internal Do Not Call Class without instituting procedures for maintaining a list of persons who request not to receive such text messages.

44. Wright and members of the Internal Do Not Call Class have been damaged and are entitled to an award of \$500 in statutory damages for each violation. 47 U.S.C. § 227(c)(5).

45. The Court should award \$1,500 in statutory damages for each violation because the violations were knowing or willful. *Id.*

SECOND CAUSE OF ACTION

Violation of the South Carolina Telephone Privacy Protection Act (On Behalf of Plaintiff and the SC Stop Class)

46. Harbor Freight violated S.C. Code Ann. § 37-21-70(A) by initiating, or causing to be initiated, text messages to Wright and the SC Stop Class after they requested that the messages stop.

47. Wright and the SC Stop Class members have been damaged and are entitled to an award of \$1,000 in statutory damages for each violation. S.C. Code Ann. § 37-21-80(A).

48. The Court should award \$5,000 in statutory damages for each violation because the violations were knowing or willful. S.C. Code Ann. § 37-21-80(B).

49. The Court should award reasonable attorneys' fees and court costs. S.C. Code Ann. § 37-21-80(C).

RELIEF REQUESTED

Wright respectfully requests the Court grant the following relief:

- A. Certification of the proposed classes;
- B. Appointment of Wright as class representative;
- C. Appointment of the undersigned as lead counsel for the classes;
- D. An award of damages to Wright and class members, as allowed by law;
- E. An award of fees and costs, as allowed by law;
- F. Orders granting such other relief as the Court deems necessary, just, and proper.

JURY DEMAND

Wright requests a jury trial as to all claims of the Complaint so triable.

Dated: May 14, 2025

Respectfully submitted,

/s/ Brittany Clark
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